IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES

In re Application of	:	Adam Twiss
	:	
For	:	METHOD AND APPARATUS FOR
	:	TRAFFIC MANAGEMENT IN
	:	PEER-TO-PEER NETWORKS
	:	
Serial No.	:	10/544,277
	:	
Filed	:	December 23, 2005
	:	
Art Unit	:	2456
	:	
Examiner	:	Mai, Kevin S.
	:	
Attorney Docket No.	:	ALC 3520
	:	
Confirmation No.	:	1316

REPLY BRIEF

Mail Stop Appeal Brief Patents
Commissioner for Patents
P.O. Box 1450
Alexandria, Virginia 22313-1450

Sir:

    Appellant respectfully submits this Reply Brief in response to the Examiner's

Answer mailed on December 9, 2010.

I. STATUS OF CLAIMS

Claims 75-89, 92-105, 108, 110-115, 117-123, and 126 are on appeal.

Claims 75-89, 92-105, 108, 110-115, 117-123, and 126 are pending.

No claims are withdrawn.

No claims are allowed.

Claims 1-74, 90, 91, 106, 107, 109, 116, 124, 125, and 127-148 are canceled.

Claims 75-89, 92-105, 108, 110-115, 117-123, and 126 are rejected.

II. GROUNDS OF REJECTION TO BE REVIEWED ON APPEAL

Appellant respectfully presents the following grounds of rejection for review:

A.   On pages 3-13, the Office Action rejects claims 75-80, 87, 92-97, 108, 110-113, 123, and 126 under 35 U.S.C. § 103(a) as allegedly unpatentable over Pub. No. US2003/0208621 to Bowman ("Bowman").

B.   On page 13-20, the Office Action rejects claims 81, 83, 86, 98, 100, 103, 114, 117, and 120 under 35 U.S.C. § 103(a) as allegedly unpatentable over Bowman in view of Pub. No. US2003/0062375 to Teodosiu ("Teodosiu").

C.   On pages 20 and 21, the Office Action rejects claims 82, 99, and 115 under 35 U.S.C. § 103(a) as allegedly unpatentable over Bowman in view of Pub. No. US2004/0148434 to Matsubara et al ("Matsubara").

D.   On pages 22 and 23, the Office Action rejects claims 84, 101, and 118 under 35 U.S.C. § 103(a) as allegedly unpatentable over Bowman in view of Teodosiu, further in view of Pub. No. US2002/0049760 to Scott et al ("Scott").

E.   On pages 23 and 24, the Office Action rejects claims 85, 102, and 119 under 35 U.S.C. § 103(a) as allegedly unpatentable over Bowman in view of Teodosiu, further in view of Matsubara.

F.   On pages 24-28, the Office Action rejects claims 88, 89, 104, 105, 121, and 122 under 35 U.S.C. § 103(a) as allegedly unpatentable over Bowman in view of Pub. No. US2004/0088646 to Yeager et al ("Yeager").

III. ARGUMENTS

In section (10) entitled "Response to Argument", starting on page 28, the Examiner's Answer puts forth several new arguments in response to Appellant's Appeal Brief. Appellant will respond to each of the Examiner's new arguments in turn. However, Appellant first notes that the Examiner's Answer does not respond to one or more arguments contained in Appellant's Brief. On this basis alone, the rejections should be overturned.

Independent claim 75 recites: "routing all peer-to-peer messages in the first network portion with an <u>intended destination</u> in the second network portion outside of a network of an Internet Service Provider (ISP) to a **gateway** between peer-to-peer nodes residing on said first and second network portions" (emphasis added). Similar subject matter appears in independent claims 92 and 110. Appellant respectfully submits that the references of record, alone or in combination, fail to disclose, suggest, or teach this subject matter.

On page 31, the Examiner's Answer argues that Bowman's PPO acts as a gateway between the various network portions. In response, Appellant respectfully submits that paragraph [0048] of Bowman refers to Fig. 7, a decentralized P2P network having a first network [12a] and a second network [12b]. These networks do not resemble the claimed first and second network portions because Bowman uses both of them for P2P traffic. As recited in paragraph [0048], "P2P communication is sent between networks 12a and 12b." Further, Figure 7 does not disclose the Internet

Service Provider router as well as the gateway. Again, there is no suggestion that P2P messages need special routing relative to other messages.

Claim 78 recites, in part: "**blocking** said peer-to-peer messages at said gateway" (emphasis added). Similar subject matter appears in claims 95 and 111. Appellant respectfully submits that the references of record, alone or in combination, fail to disclose, suggest, or teach this subject matter.

On page 32, the Examiner's Answer agues that blocking messages and dropping messages do the same thing. In response, Appellant respectfully submits that the cited portion of Bowman teaches "dropping them if there is no need to send them on." It is entirely silent regarding the subject matter of using a gateway to block P2P messages while permitting other messaages to proceed.

Claim 80 recites, in part: "responding to said peer-to-peer messages from said gateway" (emphasis added). Similar subject matter appears in claims 97 and 113. Appellant respectfully submits that the references of record, alone or in combination, fail to disclose, suggest, or teach this subject matter.

On page 33, the Examiner's Answer argues that Bowman's PPO, acting as the claimed gateway, responds to the P2P messages. In response, Appellant respectfully submits that Bowman's PPO does not act as the claimed gateway because Bowman's PPO does not distinguish between P2P and non-P2P messages. Instead, Bowman defines the PPO as a "peer to peer optimizer" that "monitors all P2P traffic." Rather than filtering P2P messages from other messages, Bowman's PPO only determines "a

cost efficient path for exchanging P2P data." See paragraph [0031] of Bowman.

Claim 87 recites, in part: "wherein data transport over said <u>third</u> network portion has a <u>cost less than a cost</u> associated with said <u>second</u> network portion" (emphasis added). Similar subject matter appears in claims 97 and 113. Appellant respectfully submits that the references of record, alone or in combination, fail to disclose, suggest, or teach this subject matter.

On pages 34 and 35, the Examiner's Aswer argues that Bowman checks each network portion for cost to identify a network portion which would be the most cost efficient. In response, Appellant respectfully submits that, as described above, the Examiner has failed to clearly identify first and second network portions. The Office Action cannot provide the recited third network portion, particularly as the Examiner's Answer relies upon a hypothetical example involving a single network [12a].

Claim 81 recites, in part: "sending a response to said queries comprising cached data derived from previous responses to the <u>queries</u>" (emphasis added). Similar subject matter appears in claims 98 and 114. Appellant respectfully submits that the references of record, alone or in combination, fail to disclose, suggest, or teach this subject matter.

On page 36, the Examiner's Answer argues that Teodosiu's gate server may perform similar functions as those performed by an RNS server. In response, Appellant respectfully submits that Teodosiu's disclosure, in paragraph [0044], of "an RNS server," does not teach the recited subject matter. Instead of using cached data

derived from previous response to the queries, Teodosiu's RNS server uses a "publisher record for the publisher" and a "list of recorded publisher identifiers." See paragraph [0048] of Teodosiu. Appellant respectfully submits that publisher records and identifiers are not the same as the claimed queries.

Claim 83 recites, in part: "<u>**modifying**</u> a respose to a previous file search request such that said response does not indicate that a requested file may be found in said <u>second</u> network portion" (emphasis added). Similar subject matter appears in claims 100 and 117. Appellant respectfully submits that the references of record, alone or in combination, fail to disclose, suggest, or teach this subject matter.

On page 37, the Examiner's Answer argues that Teodosiu discloses an embodiment where the gateway handles the requests. In response, Appellant respectfully submits that Teodosiu does not provide the claimed gateway because Teodosiu does not distinguish between P2P and non-P2P messages. Also, Teodosiu fails to modify responses to **previous file search requests** because Teodosiu does not indicate whether a requested file can be found in a second network portion.

Also, as described above, Bowman fails to provide a first network portion and second network portion as claimed. Thus, Teodosiu fails to remedy Bowman's deficiencies. Rather, Teodosiu heightens them because Teodosiu discloses a single peer-to-peer network, as depicted in Fig. 1.

Claim 86 recites, in part: "<u>**modifying**</u> said response to indicate that said requested file is obtainable from a peer-to-peer node located on said <u>third</u> network

portion" (emphasis added). Similar subject matter appears in claims 103 and 120. Appellant respectfully submits that the references of record, alone or in combination, fail to disclose, suggest, or teach this subject matter.

On pages 38 and 39, the Examiner's Answer alleges that Bowman clearly indicates the ability to rewrite routing information to provide the requestor with a more cost efficient path. In response, as described before, Appellant respectfully submits that Bowman fails to disclose the recited third network portion. In addition, Appellant respectfully submits that Bowman does not modify responses to indicate that a file is obtainable from a third network portion.
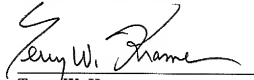
On page 20, the Office Action alleges that paragraph [0062] of Matsubara discloses "a data stored [sic] configured with the P2P gateway server to cache accessed files." In response, Appellant argued in the Appeal Brief that Matsubara teaches away from use of a gateway server alone, instead indicating that "gateway logic 202" should "cooperate with the HTTP server component 206 to generate a suitable Web page or other suitable HTTP message." Moreover, as disclosed in paragraph [0059], Matsubara does not even use P2P messages. Instead, the browser communicates an HTTP message indicative of a file to be downloaded.

On pages 39 and 40, the Examiner's Answer argues that Matsubara is not incompatbile with Bowman. In response, Appellant respectfully submits that Matsubara clearly discloses "using messages that conform to a protocol other than the P2P protocol." See paragraph [0012] of Matsubara. Thus, Matsubara would teach

away from the recited subject matter, which involves distinguishing P2P and non-P2P messages. Instead, Matsubara has a "P2P gateway" that processes both P2P protocol messages and messages having a protocol other than P2P in the same way.

Appellant respectfully submits that the remaining points of argument set forth in the Examiner's Answer are repetitive, and were fully addressed in Appellant's Appeal Brief. For the reasons set forth herein and in the Appeal Brief, Appellant respectfully requests that this Honorable Board reverse the rejections of the claims under 35 U.S.C. § 103(a). Therefore, Appellant respectfully requests withdrawal of the rejections of claims 1-20 under 35 U.S.C. § 103(a).

Respectfully submitted,
KRAMER & AMADO, P.C.

Date: __January 27, 2011__

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